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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

RACHEL MEHR, *et al.*,

Plaintiffs,

v.

FÉDÉRATION INTERNATIONALE DE
FOOTBALL ASSOCIATION, *et al.*,

Defendants.

No. 4:14-cv-03879-PJH

PLAINTIFFS' MOTION FOR LEAVE
TO FILE NEWLY RELEASED
FEDERAL GOVERNMENTAL
MATERIALS REGARDING
DEFENDANT FÉDÉRATION
INTERNATIONALE DE FOOTBALL
ASSOCIATION ("FIFA") AND ITS
PENDING MOTION TO DISMISS ON
JURISDICTIONAL AND OTHER
GROUNDS

On May 27, 2015, the United States Department of Justice (“DOJ”), the Federal Bureau of Investigation (“FBI”), and the Internal Revenue Service (“IRS”) announced (1) the filing of a 161 page, 47 count criminal Indictment against numerous current and former executives of Defendant Fédération Internationale de Football Association (“FIFA”), (2) the filing of several related criminal Informations against various former FIFA executives and others, and (3) various related agreements to plead guilty (collectively, the “Government Filings”).

The Government Filings, and related concurrent government statements, contain information relevant to several issues being considered by the Court and for which FIFA and the Plaintiffs previously have submitted evidentiary materials for the Court’s consideration.

Specifically, this new information relates to:

(1) The portions of Plaintiffs’ opposition to FIFA’s motion to dismiss that respond to FIFA’s arguments regarding personal jurisdiction¹;

(2) The portions of Plaintiffs’ opposition to FIFA’s motion to dismiss that respond to FIFA’s arguments regarding the alleged necessity of joining non-party International Football Association Board (“IFAB”)²;

(3) Plaintiffs’ pending motion to compel jurisdictional discovery from FIFA³;

(4) Plaintiffs’ request that the Court grant leave to file an amended complaint⁴; and

(5) Plaintiffs’ arguments on the above issues at the hearing held on May 6, 2015.⁵

The below information also is relevant to the Court’s analysis of the credibility of the information that FIFA has presented to the Court, including via multiple declarations. For example,

¹ See Pls.’ Opp’n to Def. Fédération Internationale De Football Association’s Mot. to Dismiss Compl. (“FIFA Opp.”), filed Mar. 20, 2015, ECF No. 62, at 2, 5-14.

² See *id.*, at 1, 3-4, 14-19.

³ See Pls.’ Mot. to Compel Jurisdictional Discovery from Def. Fédération Internationale De Football Association, filed Apr. 21, 2015, ECF No. 82.

⁴ See FIFA Opp., at 24.

⁵ See, e.g., Hr’g Tr., May 6, 2015, at 22-28 (jurisdiction); 30-34 (jurisdictional discovery); 37-49 (IFAB).

1 FIFA executive Jerome Valcke has submitted two declarations to this Court.⁶ Detailed public reports
 2 now implicate him in corruption.⁷ And today, FIFA's President Sepp Blatter has resigned, stating
 3 among other things that "FIFA needs a profound overhaul" and "We need deep-rooted structural
 4 change."⁸

5 As detailed below, the federal government indicated that it is in the midst of an ongoing
 6 multi-agency investigation. The information described below that has already been released,
 7 however, details contacts between FIFA personnel and the United States, including California. At
 8 the recent hearing in this matter, Plaintiffs' counsel indicated that they would concede that FIFA was
 9 not subject to general personal jurisdiction in this Court (as opposed to specific personal
 10 jurisdiction).⁹ However, in view of the material presented below, as well as material previously
 11 presented to the Court, and apparently forthcoming material from governmental entities, Plaintiffs
 12 now believe that discovery is needed to determine whether FIFA is subject to general jurisdiction (as
 13 well as specific jurisdiction).

14 The Civil Local Rules address the issuance of subsequent judicial opinions, but do not
 15 specifically address the circumstances here, *i.e.*, newly released factual material during the pendency
 16 of a motion.¹⁰ Thus, out of an abundance of caution, Plaintiffs request leave of Court to file the
 17 materials attached as exhibits to the accompanying King Declaration. This Court, in analogous
 18 circumstances, has granted a motion to file newly received evidentiary material.¹¹

19
 20 ⁶ See Decl. of Jerome Valcke in Supp. of Fédération Internationale De Football Association's
 21 Motion to Dismiss the Comp. or, in the Alternative, Mot. to Compel Arbitration, Jan. 30, 2015, ECF
 22 46; Decl. of Jerome Valcke in Supp. of Fédération Internationale De Football Association's Reply
 Memorandum of Law in Further Supp. of the Motion to Dismiss the Complaint, Apr. 10, 2015, ECF
 No. 73.

23 ⁷ See, e.g., Decl. of Jon T. King in Supp. of Pls.' Mot. for Leave to File Newly Released Federal
 24 Governmental Material Regarding Def. Fédération Internationale De Football Association ("FIFA")
 And Its Pending Mot. to Dismiss On Jurisdictional and Other Grounds ("King Decl."), Ex 1, filed
 concurrently herewith. All emphasis on exhibit references added, unless otherwise noted.

25 ⁸ See King Decl., Exh 2.

26 ⁹ See, e.g., Hearing Tr., May 6, 2015, at 2.

27 ¹⁰ See Civ. L.R. 7-3(d)(2).

28 ¹¹ See *Quintana v. Claire's Stores, Inc.*, No. 13-0368-PSG, 2013 WL 1736671, at *4 (N.D. Cal.
 Apr. 22, 2013) ("After briefing on the motion [to remand] ended, Defendants requested leave to file
 additional evidence consisting of Plaintiffs' responses to interrogatories about their claims. Plaintiffs

FIFA's counsel declined to consent to the relief sought in this Motion, stating that filing the governmental materials "would be an obvious ploy to prejudice the Court and distract it from the numerous and obvious infirmities in the Complaint."¹² It is *FIFA*, however, that has raised issues with this Court regarding (1) jurisdiction; and (2) FIFA's control and influence over soccer as compared to IFAB. FIFA should not be allowed to bar the submission of relevant information on those discrete topics on the grounds that it arises in connection with criminal proceedings implicating its executives.

I. THE GOVERNMENTAL ENTITIES' STATEMENTS IN CONNECTION WITH THE INDICTMENT, CRIMINAL INFORMATIONS, AND GUILTY PLEAS

On Wednesday, May 27, 2015, the DOJ, FBI, and IRS issued a detailed statement titled "Nine FIFA Officials and Five Corporate Executives Indicted for Racketeering Conspiracy and Corruption" (the "DOJ Statement").¹³

The Indictment also references 25 unnamed co-conspirators, 11 of which are identified as being a "high-ranking official of FIFA," a "member of FIFA's executive committee," or an "official of FIFA."¹⁴

The DOJ Statement provides an overview of the Government Filings, as well as additional details regarding the DOJ's ongoing investigation.¹⁵ Pertinent sections include:

- "The defendants charged in the indictment include high-ranking officials of the Fédération Internationale de Football Association (FIFA), **the organization responsible for the regulation and promotion of soccer worldwide**, as well as leading officials of other soccer governing bodies that **operate under the FIFA umbrella**."

oppose Defendants' request to submit the additional evidence on the grounds that Defendants filed an improper administrative motion. Given that Defendants obtained Plaintiffs' responses after the deadline to file its opposition and that Plaintiffs' responses are relevant to the assessment of the amount in controversy, the court finds good cause to allow Defendants to submit the additional evidence. The motion is GRANTED." See also Civil L. R. 7-9 ("Motion for Reconsideration") (referencing "[t]he emergence of new material facts").

¹² See King Decl., Exh. 3.

¹³ See King Decl.; Ex 5.

¹⁴ King Decl., Ex. 4, ¶¶ 44-69.

¹⁵ King Decl., Ex. 5.

- 1 ▪ “The charges were announced by Attorney General Loretta E. Lynch, Acting U.S.
2 Attorney Kelly T. Currie of the Eastern District of New York, Director James B. Comey
3 of the FBI, Assistant Director in Charge Diego W. Rodriguez of the FBI’s New York
4 Field Office, Chief Richard Weber of the Internal Revenue Service-Criminal
5 Investigation (IRS-CI) and Special Agent in Charge Erick Martinez of the IRS-CI’s **Los**
6 **Angeles Field Office.**”
- 7 ▪ “Also this morning, a search warrant is being executed at [FIFA member] CONCACAF
8 headquarters in Miami, Florida.”
- 9 ▪ “The guilty pleas of the four individual and two corporate defendants that were also
10 unsealed today include the guilty pleas of Charles Blazer, the long-serving former general
11 secretary of CONCACAF and **former U.S. representative on the FIFA executive**
12 **committee . . .**”
- 13 ▪ ““The indictment alleges **corruption that is rampant, systemic, and deep-rooted** both
14 abroad and **here in the United States,**” said Attorney General Lynch. “It spans at least
15 two generations of soccer officials who, as alleged, have based their positions of trust to
16 acquire millions of dollars in bribes and kickbacks. **And it has profoundly harmed a**
17 **multitude of victims,** from the **youth leagues** and developing countries that should
18 benefit from the revenue generated by the commercial rights these organizations hold, to
19 the fans throughout the world whose support for the game makes those rights valuable.”
- 20 ▪ “Acting U.S. Attorney Currie extended his thanks to the agents, analysts and other
21 investigative personnel with the . . . **IRS-CI Los Angeles Field Office . . .**”
- 22 ▪ FBI Director James Comey stated: “**Undisclosed and illegal payments, kickbacks, and**
23 **bribes became a way of doing business at FIFA.**”

24 May 27, 2015, the DOJ also issued a statement from United States Attorney General Loretta
25 E. Lynch, which included the following:

- 26 ▪ “In many instances, defendants and their co-conspirators planned aspects of their scheme
27 **during meetings held here in the United States;** they used the **banking and wire**
28 **facilities of the United States** to distribute the bribe payments; and they planned to profit
29 from their scheme in large part through **promotional efforts directed at the growing**
30 **U.S. market for soccer.**”¹⁶

31 *The New York Times* quoted a law enforcement official as stating:

- 32 ▪ “**We’re struck by just how long this went on for and how it touched nearly every**
33 **part of what FIFA did. It just seemed to permeate every element of the federation**
34 **and was just their way of doing business. It seems like this corruption was**
35 **institutionalized.**”¹⁷

36 ¹⁶ King Decl., Ex. 6.

37 ¹⁷ King Decl., Ex. 7.

At a press conference, Attorney General Lynch, FBI Director Comey, and others provided additional information including the following:

Acting U.S. Attorney for Eastern District of New York Kelly Currie:

- “But I want it to be very clear. This is the beginning of our effort, not the end.”¹⁸
- **“This Racketeering Enterprise impacted the United States in a variety of ways . . . a lot of the banking institutions and the way that these monies were funneled passed through the United States. Many of the people involved who are charged in the Indictment either resided in the United States during some of the time, they conducted meetings regarding their scheme in the United States, so there’s a large variety of impact on the United States.”**¹⁹

I. THE INDICTMENT AND CRIMINAL INFORMATION

The Indictment and criminal Informations contain the following statements, including references to California, references to the United States for which discovery would be needed to further understand FIFA’s activities here, references to youth soccer, and references to FIFA’s role in soccer:

- Defendant Eugenio Figuerdo, “[i]n or about and between May 2013 and the present . . . was a member of FIFA’s executive committee and a FIFA vice president . . . [he] also served on multiple FIFA standing committees, including the finance committee and the organizing committee for the World Cup . . . From at least in or about 2005 to the present, [he] maintained a residence in the United States, specifically in **Arcadia, California.**”²⁰ Figuerdo also stated in government documents that he worked in **Irwindale, California.**²¹ The Indictment later reiterates that FIFA’s Figuerdo “maintained a residence in **California.**”²² The Indictment further references FIFA’s Figuerdo’s allegedly unlawful activities “within the **Central District of California.**”²³
- Defendant Jeffrey Webb “[i]n or about and between May 2012 and the present . . . was . . . a FIFA vice president and executive committee member. At various times relevant to the Indictment, [he] also served on multiple FIFA standing committees, including the

¹⁸ Press Conference Video, at 14:30-14:37, *available at* <http://www.c-span.org/video/?326271-1/attorney-general-loretta-lynch-fifa-indictments>.

¹⁹ *Id.* at 42:40-43:15.

²⁰ King Decl., Ex. 4, ¶ 32.

²¹ *Id.*

²² *Id.*, ¶ 99.

²³ *Id.*, ¶¶ 338, 340.

1 finance committee and the organizing committee for the World Cup.”²⁴ **“FIFA wired**
 2 **billions of dollars from its accounts at a major Swiss financial institution into**
 3 **beneficiary accounts in the United States** and throughout the world via a correspondent
 4 account at the **U.S. branch** of a major Swiss financial institution.”²⁵ FIFA’s Webb and
 others “personally controlled accounts at the New York, Miami, and **San Francisco**
 branches of major U.S. and Swiss financial institutions;”

- 5 ▪ The Indictment further states that FIFA and various other entities constituted an
 6 “enterprise” that “was engaged in, and its activities of which affected, interstate and
 7 foreign commerce.”²⁶ It continues that “[t]he principal purpose of the enterprise was to
 8 **regulate and promote the sport of soccer worldwide.**”²⁷ The Indictment continues that
 9 “members of the enterprise carried out this purpose by using a variety of methods and
 10 means, **including creating and enforcing uniform standards and rules**, organizing
 international competitions, and commercializing the media and marketing rights
 11 associated with the sport.”²⁸ It continues that “[t]he members of the enterprise, as well as
 individuals and entities employed by and associated with the enterprise, frequently
 12 engaged in banking and investment activities with **United States financial institutions.**”
- 13 ▪ The Criminal Information of former FIFA executive committee member Charles “Chuck”
 14 Blazer, indicates that he is a United States citizen, resided in the United States, was a
 member of several FIFA committees, was the general secretary of FIFA member
 organization CONCACAF, and that negotiations tainted by unlawful activities “were
 15 conducted over the telephone and in person in New York, New York, **Los Angeles,**
 16 **California,** and Miami, Florida, among other places.”²⁹
- 17 ▪ FIFA’s “congress convened in ordinary sessions biennially or annually, and at other times
 18 in extraordinary sessions in various countries around the world, **including the United**
 19 **States.**”³⁰
- 20 ▪ FIFA’s “executive committee held meetings at FIFA’s headquarters in Zurich,
 21 Switzerland, and in various countries around the world, **including the United States.**”³¹
- 22 ▪ “FIFA’s purpose was, among other things, to develop and promote the game of soccer
 23 globally by organizing international competitions and by **creating and enforcing rules**
 24 **that govern the confederations and member associations.**”³²

25 ²⁴ *Id.*, ¶ 41.

26 ²⁵ *Id.*, ¶ 90.

27 ²⁶ *Id.*, ¶ 265.

28 ²⁷ *Id.*, ¶ 2.

29 ²⁸ *Id.*

30 ²⁹ King Decl., Ex. 8, ¶ 39.

31 ³⁰ King Decl., Ex. 4, ¶ 7.

32 ³¹ *Id.*, ¶ 8.

33 ³² *Id.*, ¶ 12

- FIFA “helped finance the confederations and their member associations, including by providing funds through the Financial Assistance Program (“FAP”) and the Goal Program, which were established in the late 1990s to support the development of **youth academies, soccer fields, technical centers, and other infrastructure projects.**”³³
- “In addition to providing representatives who helped to govern FIFA, the six continental confederations worked closely with FIFA and one other to organize international soccer competitions and **carry out FIFA directives** on a regional basis. The leaders and representatives of the confederations conducted business with one another, as well as with the leaders of and associates of FIFA, throughout the year at locations around the world, **including in the United States.**”³⁴
- “The revenue generated by the commercialization of the media and marketing rights associated with soccer constituted an essential source of revenue for the enterprise. **The United States was an increasingly important and lucrative market for the commercialization of these rights.**”³⁵
- “The damage inflicted by the defendants and their co-conspirators was far-reaching. By conspiring to enrich themselves through bribery and kickback schemes relating to media and marketing rights, among other schemes, the defendants deprived FIFA, the confederations, and their constituent organizations – and, therefore, the national member associations, national teams, **youth leagues, and development programs** that rely on financial support from their parent organizations – of the full value of those rights.”³⁶

For the reasons stated herein, Plaintiffs respectfully request leave of Court to file the exhibits attached to the accompanying King Declaration.

DATED: June 2, 2015

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33 *Id.*

³⁴ *Id.*, ¶ 14.

³⁵ *Id.*, ¶ 28.

³⁶ *Id.*, ¶ 73.

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